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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No:
92906-2

In re patent application of
ROIFMAN, Chaim M.

Serial No.: 09/600,358

Group Art Unit: 1633

Filed: September 25, 2000

Examiner: Brian Whiteman

For: HUMAN LYMPHOID PROTEIN TYROSINE PHOSPHATASES

TECH CENTER 1600/2900

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RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated September 28, 2001, Applicant provisionally elects the claims of Group II, namely claims 1-22, 27, 30(b), 31, 32, and 33(a, b), relating to the Lyp protein of SEQ ID No: 4, for prosecution in the subject application, with traverse.

Applicant refers the U.S. Examiner to the International Preliminary Examination Report and notes that no unity of invention objection was raised during international preliminary examination. Accordingly, since the Examiner is considering this application during the national phase, PCT Rules 13.1 and 13.2 govern when considering unity of invention of claims of different categories without regard to the practice in national applications filed under 35USC111. In applying the PCT rules to this national phase application, the Examiner should consider for unity of invention all the claims to different categories of invention in the application and permit retention in the same application of those claims to the categories which meet the requirements of PCT Rule 13.2. Rather than relying on the PCT rules, the Examiner appears to have considered the U.S. rules for unity of invention and does not appear to have taken into account the fact that the international Examiner did not raise any such unity objection.

In any event, in particular with respect to Groups I and II, both SEQ ID No. 2 and SEQ ID No. 4 fall within the scope of broad claim 1.

It is further noted that the international authorities did not appear to find it overly burdensome to conduct a search for the subject matter claimed herein. Thus, it is respectfully submitted that the search and examination of the entire application, or at least